

Message Text

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ACTION STR-05

INFO OCT-01 ARA-10 NEA-10 IO-13 ISO-00 STRE-00 FEA-01

AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 EB-08

FRB-03 H-01 INR-07 INT-05 L-03 LAB-04 NSAE-00

NSC-05 PA-01 AID-05 SS-15 ITC-01 TRSE-00 USIA-06

PRS-01 SP-02 OMB-01 XMB-02 OPIC-03 OIC-02 AF-10

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USMTN

STR FOR ACTION PASS CODEL

E.O. 11652: N/A

TAGS: MTN, ETRD

SUBJECT: MTN STANDARDS SUBGROUP MEETING, SEPT. 22-28, 1977

REF: GENEVA 7907

1. SUMMARY: SOME PROGRESS ACHIEVED ON DRAFT STANDARDS CODE AND POSITIONS CLARIFIED THROUGH USEFUL INFORMAL WORKING SESSIONS ON FRINGES OF PLENARY MEETINGS. MAJOR PROPOSAL SUBMITTED BY BRAZIL ON SPECIAL AND DIFFERENTIAL TREATMENT FOR DEVELOPING COUNTRIES SPARKED DISCUSSION OF THE NOTION OF LDC GRADUATION IN STANDARDS CODE WHICH INDIA AND BRAZIL
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REJECTED. PRESENT TEXT MEETS REQUIREMENT OF COMPREHENSIVE STANDARDS CODE TO BE ON TABLE BY DECEMBER 15. END SUMMARY.

2. MEETING FORMAT: AT INITIAL PLENARY MEETING OF SUB-GROUP, GATT CHAIRMAN WILLIAMS SUGGESTED, PER REFTTEL, THAT INFORMAL CONSULTATIONS BEST WAY TO ACHIEVE PROGRESS ON DRAFT CODE. AS A CONSEQUENCE, FOUR HALF DAY PLENARY SESSIONS WERE DEVOTED

TO A REVIEW OF PROPOSALS FOR MODIFICATION OF CODE INCLUDING MAJOR BRAZILIAN PROPOSAL ON S AND D, WHILE INFORMAL SESSIONS OCCUPIED THE REMAINING TIME. U.S., EC, CANADA, NORDICS, JAPAN, SWITZERLAND, AUSTRALIA, BRAZIL, INDIA, MEXICO, AND HUNGARY PARTICIPATED AS A GROUP IN INFORMAL SESSIONS.

3. SCOPE OF CODE: (A) PROCESS AND PRODUCTION METHODS:

US PROPOSAL TO INCLUDE IN CODE CERTAIN PROCESS AND PRODUCTION METHODS DIRECTLY RELATED TO PRODUCT CHARACTERISTICS PROMPTED SERIOUS DISCUSSION. EC (SCHLOSSER) POINTED OUT APPLICABILITY OF THIS CONCEPT TO PHARMACEUTICAL AND CERTAIN INDUSTRIAL PRODUCTS AS WELL AS AGRICULTURAL PRODUCTS. MEXICO (DELGADO) ASSERTED THAT CODE COVERAGE OF THIS CONCEPT OF HIGH IMPORTANCE TO DEVELOPING COUNTRIES. ALTHOUGH DELS COULD NOT AGREE TO U.S. SUGGESTED LANGUAGE, THEY DID TAKE MAJOR STEP BY AGREEING TO RECORD IN THE POINTS FOR THE RECORD THAT A WAY SHOULD BE FOUND TO ENSURE THAT OBLIGATIONS OF THE CODE ARE NOT CIRCUMVENTED BY FORMULATION OF TECHNICAL REGULATIONS AND STANDARDS IN TERMS OF PROCESSES AND PRODUCTION METHODS RATHER THAN IN TERMS OF CHARACTERISTICS OR PERFORMANCE OF A PRODUCT. (B) PATENTS, COPYRIGHTS, ETC.: NORDICS (BERHOLM) POINTED OUT THAT THE PURPOSE OF CANADIAN PROPOSAL TO EXCLUDE "PATENTS, COPYRIGHTS, TRADEMARKS, CERTIFICATION MARKS, AND REGISTERED INDUSTRIAL DESIGNS BY THEMSELVES" FROM THE CODE IS ACCOMPLISHED BY DEFINITIONS. CANADA (DENIS) AGREED WITH BERGHOLM AND U.S. (KELLY) INTER-LIMITED OFFICIAL USE

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PRETATION THAT IF A PATENT, ETC. WERE REFERRED TO IN A STANDARD OR TECHNICAL REGULATION, USE OF SUCH PATENTS WOULD BE SUBJECT TO CODE'S PROVISIONS. EC CLAIMED ISSUE MERITS MORE CONSIDERATION AND CANADA RETAINED PROPOSAL. (C) GOVERNMENT PROCUREMENT: IN PRIVATE CONVERSATION CANADIANS AGREED WITH U.S. PROPOSAL TO EXCLUDE GOVERNMENT PURCHASING SPECIFICATIONS FROM STANDARDS CODE SINCE THEY ARE NOW COVERED IN DRAFT GOVERNMENT PROCUREMENT CODE BEING DEVELOPED INFORMALLY AMONG DC'S. INSUFFICIENT TIME WAS AVAILABLE TO PURSUE ISSUE FURTHER IN INFORMAL OR FORMAL SESSIONS.

4. GOVERNMENT STANDARDS: THE EC PROPOSAL THAT ADHERENTS SHOULD ACCEPT AN ABSOLUTE OBLIGATION WITH RESPECT TO VOLUNTARY STANDARDS PROMULGATED BY CENTRAL GOVERNMENT BODIES RECEIVED SUPPORT FROM U.S., CANADA, SWEDEN (STAHLBERG), SOUTH AFRICA, AND INDIA, WHILE JAPAN (TAMORI) CONTINUED TO OPPOSE, RAISING BROADER ISSUE OF BALANCE OF OBLIGATIONS THROUGH CODE.

5. CODE TEXT: A LARGE MEASURE OF AGREEMENT WAS REACHED ON A NUMBER OF DRAFTING IMPROVEMENTS. NORDICS INTRODUCED REVISIONS OF PARA 2(E) REGARDING CENTRAL GOVERNMENT PUBLICATION AND NOTIFICATION OF DRAFT TECHNICAL REGULATIONS, DELETING

NOTIFICATION PROCEDURES,
CITING PRACTICAL DIFFICULTIES THEY HAVE ENCOUNTERED IN SIMILAR
EFTA PROCEDURES. ALTHOUGH EC AGREED WITH NORDIC
SUGGESTION, PROPOSAL MET STRONG RESISTANCE FROM U.S., JAPAN,
AND LDC'S AND WAS FINALLY WITHDRAWN, ALTHOUGH NORDICS AND EC
REGISTERED RESERVATION ON THE NOTIFICATION PROCEDURES. THERE
WAS ALSO WIDE ACCEPTANCE OF NORDIC SUGGESTION FOR REDRAFT OF
PARA 4(E) CONCERNING PUBLICATION OF DRAFT STANDARDS, AND THE
DELETION OF REDUNDANT PROVISIONS IN SECTION 5 REGARDING TEST
METHODS AND ADMINISTRATIVE PROCEDURES WITH THE INCORPORATION
OF SUBSTANTIVE PROVISIONS CONCERNING FORMULATION AND
ACCEPTANCE OF TEST METHODS (PARA 5(D) AND 5(E)) NOT COVERED
ELSEWHERE IN THE CODE IN SECTION 6. NO OBJECTIONS RAISED TO
AUSTRALIAN (SPENCER) REVISION FOR AN ABBREIATED PARA 3 DEALING
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WITH OBLIGATIONS OF LOCAL GOVERNMENTS ON TECHNICAL REGULATIONS,
BUT THE JAPANESE MAINTAINED THEIR PROPOSAL FOR ADHERENTS TO
ASSUME A FIRST LEVEL OF OBLIGATION TO ENSURE LOCAL GOVERNMENT
COMPLIANCE WITH THE CODE. ON U.S. PROPOSAL TO ESTABLISH EXAMPLES
OF CIRCUMSTANCES IN WHICH INTERNATIONAL STANDARDS MAY BE
INAPPROPRIATE FOR NATIONAL USE, PARTICIPANTS AGREED TO INSERT
AN ILLUSTRATIVE LIST IN THE POINTS FOR THE RECORD. SINCE THE
ABOVE REVISIONS WERE WORKED OUT AT INFORMAL SESSIONS AND
PRESENTED TO SUBGROUP ON FINAL DAY, WILLIAMS STATED THAT THEY
WOULD BE ADDED TO DRAFT CODE UNLESS ANY DELEGATION
RAISED AN OBJECTION WITHIN ONE MONTH.

6. LEVELS OF OBLIGATIONS: AT INFORMAL SESSIONS, THERE WAS
A BRIEF DISCUSSION OF THE LEVELS OF OBLIGATIONS BETWEEN CENTRAL
GOVERNMENT AND LOCAL GOVERNMENTS IN FEDERAL SYSTEMS. THE SWISS
(LEMPEN) INDICATED THEY PLANNED TO SUBMIT A STANDARDS CODE AT
THE NATIONAL LEVEL BASED ON THE DRAFT GATT STANDARDS CODE IN
WHICH CANTONS WOULD ACCEPT AN ABSOLUTE OBLIGATION VIS-A-VIS
THE CENTRAL GOVERNMENT TO FOLLOW THE CODES PROVISIONS.
CANADA STATED THAT IT WAS LOOKING AT THE POSSIBILITY OF A
SIMILAR ARRANGEMENT.

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CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05
SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01
XMB-02 OPIC-03 OIC-02 AF-10 ARA-10 EA-10 EUR-12
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7. RELATIONSHIP OF GATT TO CODE: THROUGHOUT DISCUSSIONS, SEVERAL REFERENCES WERE MADE TO THE RELATIONSHIP OF THE CODE TO GATT RIGHTS AND OBLIGATIONS ON TOPICS SUCH AS BEST EFFORTS OF CENTRAL VIS-A-VIS LOCAL GOVERNMENTS, TREATMENT OF CONFIDENTIAL INFORMATION, AND EMERGENCY ESCAPE CLAUSES. AUSTRALIA ASSERTED THAT DRAFT CODE WOULD CLEARLY APPLY EXCEPT WHEN IN CONFLICT WITH GATT. U.S. STATED THAT A POSITIVE STATEMENT NECESSARY TO ESTABLISH PRECEDENCE OF CODE OBLIGATIONS OVER THOSE IN GATT, WHILE EC AND CANADA SAID TOO EARLY TO DECIDE THE ISSUE.

8. SPECIAL AND DIFFERENTIAL TREATMENT: BRAZIL (MEDEIROS) TABLED A SIGNIFICANT NEW PROPOSAL FOR S&D FOR LDC'S, STATING THAT PROPOSAL IS IN ADDITION TO SUBSTANTIVE POINTS FOR LDC'S ALREADY IN DRAFT CODE.
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PROPOSAL INCLUDES, AMONG OTHER ELEMENTS, MANDATORY OBLIGATION FOR DC'S TO (A) ACCORD HIGH PRIORITY TO TRANSFER OF TECHNOLOGY TO LDC'S, (B) PROVIDE LDC'S WITH ALL INFORMATION ON PREPARATION AND APPLICATION OF TECHNICAL REGULATIONS, STANDARDS, TEST METHODS, AND CERTIFICATION SYSTEMS, AND (C) GIVE PRIORITY ATTENTION TO LDC'S FACING BARRIERS TO TRADE. FURTHERMORE, ADHERENTS WOULD RECOGNIZE THAT LDC TECHNOLOGICAL CONDITIONS JUSTIFY THEIR ACCEPTANCE OF TECHNICAL REGULATIONS AIMED AT PRESERVING INDIGENOUS TECHNOLOGY AND THAT LDC'S SHOULD NOT BE COMPELLED TO ADOPT STANDARDS INCOMPATIBLE WITH THEIR DEVELOPMENT, FINANCIAL AND

TRADE NEEDS, MEDEIROS URGED SUBGROUP TO USE NEW PROPOSAL AS BASIS FOR NEGOTIATIONS, WARNING THAT ACCEPTANCE OR REFUSAL IS DIFFERENCE BETWEEN A GOOD AND BAD CODE FOR LDC'S IN DECIDING WHETHER TO ADHERE TO CODE PROVISIONS.

9. SWITZERLAND WAS JOINED BY THE NORDICS AND U.S. IN THE OBSERVATION THAT S&D PROVISION FOR LDC'S SHOULD TAKE INTO ACCOUNT A DYNAMIC ELEMENT TO COVER SITUATIONS WHERE LDC'S REACH A LEVEL OF ECONOMIC DEVELOPMENT, AT LEAST IN CERTAIN SECTORS, COMPARABLE TO THAT OF A DC. IN THIS REGARD, THE NORDICS AND U.S. POINTED TO THE FACT THAT SOME LDC'S HAVE ADVANCED STANDARDS ORGANIZATIONS. THE NORDICS STATED THAT MANY PROVISIONS DUPLICATED THOSE ALREADY CONTAINED IN THE DRAFT CODE WHILE THE U.S. QUESTIONED WHETHER SUCH SWEEPING OBLIGATIONS WERE IN ACCORD WITH THE OBJECTIVES OF THE CODE TO DEAL WITH TRADE OBSTACLES, POINTING TO PROGRAMS IN OTHER INTERNATIONAL ORGANIZATIONS BETTER EQUIPED TO HANDLE TECHNICAL ASSISTANCE, FUNDING AND TECHNOLOGY TRANSFER. U.S. SUGGESTED THAT THESE ORGANIZATIONS BE ENCOURAGED LIMITED OFFICIAL USE

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IN THEIR WORK WITH LDC'S RATHER THAN HAVING A GATT TRADE GROUP GET IN OVER THEIR HEADS. CAUTIOUS EC STATEMENT APPEARED TO SUPPORT THESE VIEWS. MALAYSIA, INDIA, MEXICO, ANDEANS, ROMANIA, NIGERIA, JAMAICA, EGYPT, AND SENEGAL SUPPORTED THE BRAZILIAN EFFORT. INDIA (HEMRAJANI) DECLARED THAT "GRADUATION IS OUT OF THE QUESTION" AND WAS JOINED BY BRAZIL IN POINTING OUT PRACTICAL DIFFICULTIES (I.E., USE OF SUBJECTIVE CRITERIA) TO DETERMINE GRADUATION. MEXICO STRESSED THAT THE BRAZILIAN PROPOSAL IS IN ADDITION TO EXISTING LDC PROPOSALS, AND MALAYSIA REITERATED ITS PROPOSAL FOR A FUND WHICH IT SAID INDIA, SINGAPORE, THAILAND, INDONESIA, AND PHILIPPINES ALSO SUPPORT. LACK OF JAPANESE, CANADIAN, AND AUSTRALIAN PARTICIPATION IN DISCUSSION WAS OBSERVED BY BRAZIL.

10. QUARANTINE SYSTEMS: IN SHORT INTERVENTION, AUSTRALIA STATED THAT IN ITS VIEW, ONE OF THE MAJOR OBJECTIVES OF DRAFT CODE IS THE HARMONIZATION OF NATIONAL STANDARDS, A PROCESS WHICH IS NOT FEASIBLE OR PRACTICAL FOR QUARANTINE SYSTEMS. THEREFORE, IT HAS RESERVATIONS THAT SUCH SYSTEMS SHOULD BE COVERED BY THE CODE. AUSTRALIA SUGGESTED, HOWEVER, THAT AN EXAMINATION OF ACTIVITIES OF OTHER INTERNATIONAL ORGANIZATIONS IN THIS FIELD (E.G., CODEX, INTERNATIONAL PLANT PROTECTION CONVENTION) IS NEEDED TO DETERMINE IF THEY DEAL WITH TRADE PROBLEMS, AND IF THERE IS A NEED FOR FURTHER

DISCIPLINE IN THIS AREA. EC POINTED OUT THAT QUARANTINE SYSTEMS ALSO APPLY TO INDUSTRIAL PRODUCTS. SWITZERLAND OPINED THAT QUARANTINE SYSTEMS ARE COVERED BY CODE AND SPECIFIC AUSTRALIAN PROBLEMS ON THIS ISSUE SHOULD BE DISCUSSED.

11. FUTURE CORK PROGRAM: PARTICIPANTS AGREED THAT PROGRESS MORE LIKELY TO BE ACHIEVED IN INFORMAL WLRKING GROUPS RATHER THAN FORMAL MEETINGS. WHILE LIMITED OFFICIAL USE

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DATE OF NEXT FORMAL SUBGROUP MEETING TO BE SET BY THE GATT CHAIRMAN IN CONSULTATION WITH DELEGATIONS, AT CLOSING OF PLENARY SESSION, WILLIAMS SUGGESTED THAT IN THE INTERIM INFORMAL CONSULTATIONS SHOULD PROCEED. AT INFORMAL SESSION, PARTICIPANTS TENTATIVELY AGREED TO MEET INFORMALLY ON NOVEMBER 28. LATENESS OF DATE OF NEXT INFORMAL DRAFTING SESSION UNFORTUNATLEY DETERMINED BY SCHLOSSER'S AVAILABILITY, WHO IS LOATH TO GOVE UP RESPONSIBILITY FOR DETAILED NEGOTIATIONS ON CODE. TOPICS SUGGESTED FOR DISCUSSION INCLUDE SCOPE OF THE CODE, EMERGENCY ESCAPE CALUSE (PARA 2(F), RETROACTIVITY, LEVELS OF OBLIGATIONS, LINK BETWEEN CODE AND GATT, AND SPECIAL AND DIFFERENTIAL TREATMENT.

12. COMMENT: THE INFORMAL MEETINGS PROVED TO BE A USEFUL METHOD FOR NEGOTIATIONS ON STANDARDS CODE. HOWEVER, DIFFICULTIES WERE ENCOUNTERED WHEN RESULTS OF INFORMAL SESSIONS WERE PRESENTED AT PLENARY MEETING DUE TO MALAYSIAN AND OTHER LDC RELUCTANCE TO ACCEPT RESULTS. END COMMENT.

13. DRAFTED BY WALLAR.MCDONALD

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Message Attributes

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Disposition Approved on Date:
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Disposition Date: 22 May 2009
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Page Count: 6
Previous Channel Indicators: n/a
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Reference: 77 GENEVA 7907
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 17-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1360353
Secure: OPEN
Status: NATIVE
Subject: MTN STANDARDS SUBGROUP MEETING, SEPT. 22-28, 1977
TAGS: ETRD
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/b32e4a4b-c288-dd11-92da-001cc4696bcc
Review Markings:
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